

OPIE
MAR 22 2004
U.S. TRADEMARK OFFICE

Atty. Dkt. No. 018844-0313

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Angelika Utecht

Title: Geranium Plant Named 'Fisrodark'

Appl. No.: 10/715,427

Filing Date: November 19, 2003

Examiner: K. Bell

Art Unit: 1661

CLAIM FOR CONVENTION PRIORITY

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The benefit of the filing date of the following prior foreign application filed in the Canadian Plant Breeders' Rights Office on December 23, 2002, is hereby requested, and the right of priority provided in 35 U.S.C. §119 is hereby claimed.

In support of this claim, filed herewith is a certified copy from the Canadian Food and Inspection Agency, Plant Breeders' Rights Office:

- CANADIAN PLANT BREEDER'S RIGHTS APPLICATION NO. 02-3406 'Fisrodark' filed December 23, 2002.

Respectfully submitted,

Date March 22, 2004

By Richard C. Peet

FOLEY & LARDNER LLP
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5483
Facsimile: (202) 672-5399

Richard C. Peet
Attorney for Applicant
Registration No. 35,792



Canadian Food Inspection Agency Agence canadienne d'inspection des aliments

Plant Breeders' Rights Office
59 Camelot Drive
Ottawa, Ontario
K1A 0Y9
Tel.: (613)225-2342
Fax: (613)228-6629

February 3, 2004

**CERTIFIED COPIES OF DOCUMENTS RELATING
TO THE APPLICATION FOR A GRANT OF PLANT BREEDER'S RIGHTS
FOR THE PELARGONIUM VARIETY, 'Fisrodark'
(previously proposed denomination, 'Fir 487')**

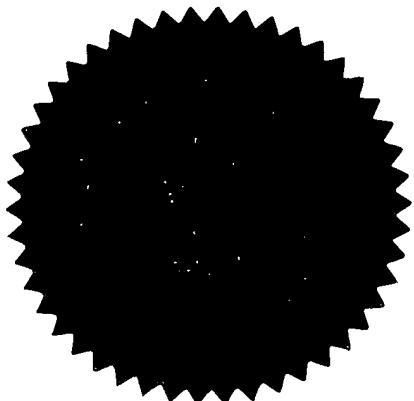
As Commissioner of Plant Breeders' Rights, I hereby certify that the documents set out below are true copies of the documents originally filed in our Office on December 23, 2002 by Florfis AG for the above-mentioned variety.

Application Number: 02-3406
Proposed denomination: 'Fisrodark'
Previously proposed
denomination: 'Fir 487' (changed April 29, 2003)

Valerie Sisson
Valerie Sisson
Commissioner
Plant Breeders' Rights

Att. : Plant Breeders' Rights Application form (3 pages)
Evidence Establishing the Legal Representative (1 page)
Authorization of Agent (1 page)

Canada



PLANT BREEDERS' RIGHTS APPLICATION FORM

(SEE INSTRUCTIONS ON PAGE 3-4)

THE INFORMATION ON THIS DOCUMENT IS REQUIRED BY THE GOVERNMENT OF CANADA FOR THE PURPOSE OF DETERMINING IF A PLANT BREEDERS' RIGHT IS TO BE GRANTED. THE APPLICATION IS HELD CONFIDENTIAL PRIOR TO PUBLICATION OF PARTICULARS IN THE PLANT VARIETIES JOURNAL. SOME INFORMATION MAY BE ACCESSIBLE OR PROTECTED AS REQUIRED UNDER THE PROVISIONS OF THE ACCESS TO INFORMATION ACT. INFORMATION THAT COULD CAUSE YOU OR YOUR ORGANIZATION INJURY IF RELEASED IS PROTECTED FROM DISCLOSURE AS DEFINED IN SECTION 20 OF THE ACCESS TO INFORMATION ACT.

APPFORM/01-11-01

1. NAME OF APPLICANT (AS IT IS TO APPEAR ON THE CERTIFICATE)	3. PROPOSED DENOMINATION (THE DENOMINATION OR ANY PART OF THE DENOMINATION MUST NOT BE TRADEMARKED IN CANADA) 'Fir 487' IS THIS AN EXPERIMENTAL DESIGNATION? <input checked="" type="checkbox"/> 9 YES <input type="checkbox"/> 9 NO
FLORFIS AG	
2. ADDRESS OF APPLICANT Parkstrasse 33 CH - 4102 Binningen PHONE NO. (INCLUDE AREA CODE): FAX NO. (IF AVAILABLE):	4. OTHER DESIGNATIONS(S) <input checked="" type="checkbox"/> 9 YES (IF "YES" GIVE DESIGNATION AND COUNTRY OF USE) <input checked="" type="checkbox"/> 9 NO
5. NAME OF AGENT Mr. Eric Voogt, Westcan Greenhouses LTD.	
6. ADDRESS OF AGENT 2527 - 210th Street Langley, British Columbia, V2Z 2A9 PHONE NO. (INCLUDE AREA CODE) 604-530-9298	FAX NO. (IF AVAILABLE) 604-530-9966
7. NAME AND ADDRESS OF BREEDER, IF DIFFERENT FROM APPLICANT Angelika Utecht PHONE NO. (INCLUDE AREA CODE)	FAX NO. (IF AVAILABLE)
8. GENUS AND SPECIES NAME Pelargonium zonale	9. FAMILY NAME (BOTANICAL) Geraniaceae
10. COMMON NAME Geranium	

11. HAS AN APPLICATION FOR PROTECTION BEEN FILED OUTSIDE OF CANADA?

9 YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES) not yet
 9 NO

12. HAS THE VARIETY BEEN GRANTED RIGHTS IN OTHER COUNTRIES?

9 YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)
 9 NO

13. IS PRIORITY CLAIMED IN CANADA WITH RESPECT TO AN APPLICATION(S) MADE OUTSIDE OF CANADA? (SEE INSTRUCTIONS)

9 YES (IF "YES" GIVE NAME OF COUNTRY AND DATE)
 9 NO

14. HAS THE VARIETY BEEN SOLD OUTSIDE OF CANADA?

9 YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)
 9 NO

Plant Breeders' Rights CANADA DEC 19 2002
Printed Name obertus van der

15. HAS THE VARIETY BEEN SOLD IN CANADA?

- YES (IF "YES" GIVE DATES)
 NO

16. IS AN EXEMPTION FROM COMPULSORY LICENSING REQUESTED?

- YES (IF "YES" GIVE REASONS)
 NO

17. CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR FILING (SEE INSTRUCTIONS)

- A. ORIGIN AND BREEDING HISTORY OF THE VARIETY
 B. STATEMENT OF UNIFORMITY AND STABILITY
 C. DISTINCTNESS STATEMENT
 D. SAMPLE OF PROPAGATING MATERIAL (WHERE APPLICABLE)
 E. METHODS FOR MAINTAINING THE VARIETY
 F. EVIDENCE ESTABLISHING THE LEGAL REPRESENTATIVE AS THE APPLICANT (WHERE APPLICABLE)
 G. AUTHORIZATION OF AN AGENT (WHERE APPLICABLE)

17L CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR EXAMINATION (SEE INSTRUCTIONS)

- H. REQUEST FOR EXAMINATION
 I. OBJECTIVE DESCRIPTION FORM
 J. RESULTS FROM COMPARATIVE TESTS AND TRIALS
 K. COMPARATIVE PHOTOGRAPHS (PRINT AND SLIDE)

18. CHECK APPROPRIATE BOX FOR FEE SUBMISSION(S) (PAYABLE IN CANADIAN FUNDS ONLY; CHEQUES TO BE MADE PAYABLE TO: RECEIVER GENERAL FOR CANADA)

- FILING FEE (\$250)
 EXAMINATION FEE (\$750)
 PROTECTIVE DIRECTION FEE (\$50)
 GRANT OF RIGHT FEE (\$500)
 CLAIMING PRIORITY FEE (\$50)
 OTHER _____

TO BE COMPLETED BY APPLICANTS/AGENTS REQUESTING A PROTECTIVE DIRECTION

(A PROTECTIVE DIRECTION FEE OF \$50 MUST BE ENCLOSED TO VALIDATE THIS SIGNATURE)

I/We request that a protective direction be given in respect of the plant variety covered by this application. I/We undertake while the protective direction is in force, that no propagating material of the plant variety will be sold in Canada by me/us, or with my/our consent, except as provided in subsection 19(2) of the Plant Breeders' Rights Act, in the period between the making of this application and the time when the Plant Breeders' Right is granted, or refused.

Signature of applicant _____ Date _____

TO BE COMPLETED BY ALL APPLICANTS/AGENTS

I/We am(are) the owner(s) or acting on behalf of the owner(s) of this novel plant variety, and believe that the variety is distinct, uniform and stable as required in subsection 4(2) of the Plant Breeders' Rights Act. I/We understand that test results must be carried out using acceptable scientific procedures. I/We certify that the sample of propagating material supplied (where applicable) is representative of the variety.

Making a false representation is an offence and may result in a loss of the Plant Breeders' Right and prosecution.

SIGNATURE(S)	CAPACITY OR TITLE	DATE
 Hiltrud Schnyder (please print name):	Managing director	Dec. 6, 2002

FOR OFFICIAL USE ONLY

PBRO APPLICATION NO.:	FILING OF APPLICATION: DATE:	TIME: ____ a.m. ____ p.m.
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**APPENDIX VI
LEGAL REPRESENTATIVE STATEMENT / ASSIGNMENT BEFORE THE ISSUE OF
PLANT BREEDERS' RIGHTS**

The following letter may serve as a standard form to be completed prior to application as evidence establishing the applicant as the legal representative, or after application when an assignment of a new variety occurs prior to a grant of rights.

I,Angelika Utechtwhose full post office address is
.....Hinterer Rebstock 38
.....56410 Montabaur
.....Germany

in consideration of \$..... the receipt of which is hereby acknowledged, do hereby sell and assign, effective the day of 19.....,

toFlorfis AGwhose full post office address is
.....Parkstrasse 33.....
.....4102 Binningen.....
.....Switzerland.....

my interest in Canada for the Pelargonium variety entitled 'Fir 487'
(crop kind) (denomination and application no.)

As described and claimed in my application for Plant Breeders' Rights and to all my corresponding right, title and interest in and to any grant of rights which may issue therefor.

Signed atHillscheidGermany
(City or town) (Country)

this5thday ofNovember19.....2002.....

WitnessI. Wickel
I. Wickel

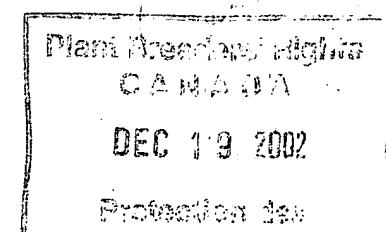
.....A. Utecht
A. Utecht (Signature of assignor)

Signed atBinningenSwitzerland
(City or town) (Country)

this6thday ofDecember2002.....

WitnessDr. M. Unkelbach

.....H. Schnyder
H. Schnyder (Signature of assignee)



AGRICULTURE AND AGRI-FOOD CANADA

PLANT BREEDERS' RIGHTS OFFICE

AUTHORIZATION OF AGENT

We hereby authorize:

Eric VOOGT
Westcan Greenhouses Ltd.
2527 - 210th Street,
Langley, British Columbia
V2Z 2A9

to sign any application, notice or other document given, delivered to or served upon the Controller in accordance with Plant Breeders' Rights Regulations and to make all attendances upon the Controller relating to the plant variety:

Pelargonium 'Fir 487'

Date: Binningen, December 6, 2002

Signature:

H. Schnyder

FLORFIS AG
Parkstrasse 33
4102 Binningen
Switzerland

Plant Breeders' Rights
CANADA
DEC 19 2002
Protected in Canada
obtention végétale

GERANIUM Pelargonium zonale 'Fir 487'

17A) Origin and breeding history of the variety

'Fir 487' was derived from a hybridization in 1998 and was selected as one seedling within the offspring in 1999.

The female parent was the variety 'Americana Dark Red', having deep red, semi-double flowers, medium green foliage, and vigorous growth habit.

The male parent was the variety 'Fisfire', appl. no. 99-1894, with brilliant orange-red flowers, medium green foliage and moderately compact plant habit.

The hybridization was made in Hillscheid, Germany, and first selection of the seedlings was conducted in Moncarapacho, Portugal. Cuttings from the selected seedling were then taken back to Hillscheid for further selection and trial cultivation in 2000.

17 B and E) Statement of uniformity and stability Methods for maintaining the variety

Variety 'Fir 487' originated from a single seedling that was propagated asexually. It is a uniform clone, without genetical variation.

The stock plants in Hillscheid, Germany, and Cuernavaca, Mexico, had been obtained by tissue culture and were checked for health and stability of the described characteristics.

They are used for propagation by cuttings (of the shoot tips).

17 C) Distinctness statement

The most similar varieties are 'Fissamba', appl. no. 96-796, grant no. 0356, and 'Fip 553', application no. 01-2880.

In comparison to 'Fissamba', 'Fir 487' has a similar flower colour, but much more vigorous growth and taller plant habit.

In comparison to 'Fip 553', 'Fir 487' has a roughly similar flower colour, flower shape, and plant habit, but leaves are medium sized, not large.

